

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 19.100 TO THE MUNICIPAL CODE TO ADOPT
AND ESTABLISH AN URBAN AGRICULTURE INCENTIVE
ZONE

WHEREAS, California Assembly Bill 551 (“Urban Agriculture Incentive Zones Act”) added Chapter 6.3, commencing with 51040, to Part 1 of Division 1 of Title 5 of the California Government Code, amended 402.1 of the California Revenue and Taxation Code, and added 422.7 to the California Revenue and Taxation Code; and

WHEREAS, the Urban Agriculture Incentive Zones Act is intended to promote small scale agriculture on vacant, unimproved, or blighted lands in urban areas; and

WHEREAS, the City of Chula Vista (“City”) has existing land use zoning regulations pertaining to small-scale agriculture; and

WHEREAS, the Urban Agriculture Incentive Zones Act authorizes, under specified conditions and until January 1, 2029 (or to a time otherwise provided for by the State), the City and a property owner to enter into a contract to restrict the property owner’s use of their vacant, unimproved, or otherwise blighted lands for small-scale agricultural use in urban areas, provided the contract is for a term of no less than five (5) years and the property is at least 0.10 acre and not more than three (3) acres in size; and

WHEREAS, in exchange for the property owner restricting their property for urban agriculture and entering into a contract pursuant to the Urban Agriculture Incentive Zones Act, the San Diego County Assessor (“County Assessor”) is required to value the restricted property at the lowest of three values: the value based on the average per-acre value of irrigated cropland in California, the current fair market value, or the factored base year value (Proposition 13 value); and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, property owners who breach the contract or terminate the contract prior to its expiration are obligated to pay a fee equal to the tax benefit they received; and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, no Urban Agriculture Incentive Zone may be established in any area that is currently subject to, or has been subject to, within the previous three (3) years, a contract pursuant to California Government Code sections 51200 to 51297.4 (the “Williamson Act”); and

WHEREAS, pursuant to the Urban Agriculture Incentive Zones Act, the establishment of an Urban Agriculture Incentive Zone within the City of Chula Vista is subject to approval by the County Board of Supervisors, which was approved by County Resolution No. 18-062 on May 15, 2018; and

WHEREAS, on June 13, 2018 the City of Chula Vista Planning Commission held a public hearing and recommended by a vote of 4-0 that City Council adopt the ordinance (CVMC 19.100) to establish an Urban Agriculture Incentive Zone by Resolution No. MPA18-0005.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I.

Chapter 19.100 is hereby added to the Chula Vista Municipal Code as follows:

Chapter 19.100

URBAN AGRICULTURE INCENTIVE ZONE PROGRAM

Sections:

- 19.100.010 Title.
- 19.100.020 Purpose.
- 19.100.030 Urban Agriculture Incentive Zone (“UAIZ”) Established.
- 19.100.040 UAIZ Contract Required.
- 19.100.050 UAIZ Property.
- 19.100.060 Agricultural Uses.
- 19.100.070 County Assessor.
- 19.100.080 Agricultural Use Commencement.
- 19.100.090 Pesticides and Fertilizers-Restrictions.
- 19.100.100 Annual Inspection for Conformance.
- 19.100.110 Cancellation of UAIZ Contract with City.
- 19.100.120 Fees.
- 19.100.130 Implementation Date.
- 19.100.140 Limitation on Entry of UAIZ Contracts.
- 19.100.150 Additional Requirements

CHAPTER 19.100

19.100.010 Title.

This chapter shall be known as the City of Chula Vista Urban Agriculture Incentive Zone Program and may be referred to as the UAIZ Program.

19.100.020 Purpose.

The purpose of the City of Chula Vista Urban Agricultural Incentive Zone Program is to implement AB 551, as described in section 51040, et seq., of the California Government Code and known as the Urban Agriculture Incentive Zones Act, to promote and foster urban agriculture. The UAIZ Program is designed to increase access to healthy food by providing an incentive for property owners of eligible vacant or unimproved properties within the City of Chula Vista to utilize these properties for small-scale agricultural uses. The property owners of eligible properties may voluntarily enter into agreements with the City to participate in the UAIZ Program (to promote urban agriculture enterprises) in exchange for potential reduced property tax assessments under section 422.7 of the California Revenue and Taxation Code.

19.100.030 Urban Agriculture Incentive Zone Established.

In accordance with Urban Agricultural Incentive Zones Act, as set forth in AB 551 and which may be amended from time to time by the State Legislature, an Urban Agriculture Incentive Zone is hereby established in the City of Chula Vista. The Urban Agriculture Incentive Zone shall consist of all urban areas, as defined in Government Code sections 51040.3(a) and 51040.3(b), within the City of Chula Vista except those lands that are currently subject to, or have been subject to within the three (3) years immediately preceding the effective date of this Ordinance, a contract pursuant to the Williamson Act. The boundaries of the Urban Agriculture Incentive Zone shall be coterminous with the boundaries of the City of Chula Vista.

19.100.040 UAIZ Contract Required.

Pursuant to the Urban Agricultural Incentive Zones Act, the City and any property owners within the Urban Agriculture Incentive Zone may enter into an enforceable contract, under terms and conditions required by the City Manager or City Attorney, including terms and conditions to ensure compliance with Section 19.100.060(B), to restrict the use of eligible property to small-scale agriculture uses for an initial term of not less than five (5) years, and which may be extended at the discretion of the City Manager (“UAIZ Contract”). The executed UAIZ Contract and any attendant attachments shall be recorded by the property owner with the County Recorder, with copies of the recorded documents to be provided to the City Manager within two (2) business days of the recordation.

19.100.050 UAIZ Property.

Property eligible to enter into an UAIZ Contract shall consist of the following:

1. The property must be vacant or unimproved. The property may not contain any habitable dwellings, but may contain only non-habitable structures that are or will be accessory to agricultural uses, such as a toolshed, greenhouse, produce stand, or instructional facility as approved by the City Manager or their designee; and
2. The property is located within a Census-designated urbanized area, as defined in the AB 551, so long as it is not wholly or partially within a National Recreation Area, Significant Ecological Area, or Sensitive Environmental Resource Area; and
3. The property in its entirety shall be available for and dedicated to agricultural uses immediately and for the duration of the contract and which shall be for a term of five (5) years, which may be renewed at the discretion of the City Manager; and

4. The property shall be a minimum of one-tenth (0.10) of an acre and a maximum of three (3) acres; and
5. Secured property tax obligations shall be current and paid according to installments determined by State law.
6. All structures are subject to the provisions in CVMC 19.58.020.

19.100.060 Agricultural Uses

A. Agricultural Use Defined. Subject to paragraph B (below), agricultural use(s) shall mean farming in all its branches including, but not limited to the cultivation and tillage of soil, the production, cultivation, growing, and harvesting of any agricultural or horticultural products, the raising of livestock, bees, fur-bearing animals, dairy-producing animals, poultry, agricultural education, the sale of produce through field retail stands or farm stands as defined by Article 5 (commencing with Section 47030) of Chapter 10.5 of Division 17 of the Food and Agriculture Code, and any practices performed by a farmer or on farm as incidental to or in conjunction with farm operations. The term “agricultural use” does not include timber production. The production, cultivation, growing, and harvesting of marijuana shall be prohibited in the UAIZ.

B. Zoning and Municipal Code limitations on Agricultural Use(s)/UAIZ.

1. Neither the creation of the Urban Agricultural Incentive Zone nor the execution of any UAIZ Contract shall in any way expand the allowable uses of any property under the City’s existing land use zoning regulations or ordinances. Eligible land uses under the UAIZ Program may include any agricultural land uses that are permitted or conditionally permitted, but are subject to limitations set forth in this chapter, by AB 551, by the Chula Vista Municipal Code, including, but not limited to, Title 6 [Animals] and Chapter 19.20 [Agricultural Zone], or by the terms and conditions set forth in the UAIZ Contract. Conditional Use Permits may be required by the City Manager.
2. Chula Vista Municipal Code section 19.16.030 provides that lot sizes may not be less than one acre for crop and tree farming, as defined in Chapter 19.16. Notwithstanding the aforementioned one acre limitation, a lot size may be less than one (1) acre, but not less than one-tenth (.10) of an acre, when a UAIZ Contract is entered into pursuant to section 19.100.040 of this chapter.

19.100.070 County Assessor.

Pursuant to the Urban Agricultural Incentive Zones Act, upon recordation of a UAIZ Contract, the County Assessor is required to value the restricted property at the lowest of three values: the value based on the average per-acre value of irrigated cropland in California as reported by the National Agricultural Statistics Service of the United States Department of Agriculture, the current fair market value, or the factored base year value (Proposition 13 value).

19.100.080 Agricultural Use Commencement and Continuation For Duration of UAIZ Contract.

Agricultural use must commence on the property within sixty (60) days after the recordation of the UAIZ Contract. Pursuant to the Urban Agricultural Incentive Zones Act, the entirety of the property subject to a UAIZ Contract shall be dedicated to agricultural uses and such agricultural uses shall continue for the duration of the UAIZ Contract.

19.100.090 Pesticides and Fertilizers-Restrictions.

Pursuant to the Urban Agricultural Incentive Zones Act, only pesticides or fertilizers sanctioned by the U.S. Department of Agriculture's National Organic Program may be used on the property that is subject to the UAIZ Contract.

19.100.100 Annual Inspection for Conformance.

The City Manager may conduct a site inspection to verify the property owner's conformance to the terms of the UAIZ Contract, including, but not limited to an initial inspection within ninety (90) days of the execution of a UAIZ Contract, every year after the execution of the UAIZ Contract, or as otherwise determined necessary by the City Manager.

19.100.110 Cancellation of an UAIZ Contract with the City.

A. Circumstances to Cancel UAIZ Contract. Circumstances for cancelling a UAIZ Contract with the City shall include the following:

1. **City-Initiated Cancellation for Noncompliance.** If the City Manager finds that the property does not conform to the terms of the UAIZ Contract or the property owner does not permit a site inspection as set forth in section 19.100.100, the City Manager shall provide notice to the property owner of said non-compliance and a date by which to bring the property into compliance with the UAIZ Contract or to permit an inspection pursuant to section 19.100.100. Should the property owner fail to comply with the corrective actions required by the City Manager within a time period set forth by City Manager, then notice of cancellation shall be provided to the property owner, personally or by mail, that the UAIZ Contract will be cancelled fifteen (15) calendar days after personal service or mailing of the notice. At the end of the fifteen (15) days, if the property owner has not brought the property into compliance with the terms of the UAIZ Contract or permitted an inspection pursuant to section 19.100.100, the City Manager shall execute a cancellation document and record it with the Registrar-Recorder/County Clerk and notify the County Assessor.
2. **Property Owner-Initiated Cancellation.** If the property owner submits a request to the City Manager to cancel a recorded UAIZ Contract, the City Manager will execute a cancellation document with the property owner, which the City Manager will record with the Registrar-Recorder/County Clerk and notify the County Assessor.

B. Effect of Cancellation—Fee and Tax Rate. Pursuant to Government Code section 51042(a)(2)(B), the City shall impose a fee equal to the cumulative value of the tax benefit received during the duration of the UAIZ Contract upon the property owner for cancellation of any UAIZ Contract prior to the expiration of that contract, unless the City Council makes a determination that the cancellation was caused by extenuating circumstances despite the good faith effort by the property owner. The property also shall be re-assessed to its previous non-agricultural tax rate by the County Assessor following recordation of the cancellation document.

19.100.120 Fees.

A property owner may be subject to a fee payable to the City for the implementation, administration, and monitoring of the UAIZ Contract and its terms. Said fees shall be promulgated in accordance to the City's Master Fee Schedule processes.

19.100.130 Implementation Date.

The Urban Agriculture Incentive Zone Program shall not be effective until the County of San Diego has approved the City of Chula Vista participation the UAIZ Program as required by AB 551.

19.100.140 Limitation on entry of UAIZ Contracts.

Unless extended by State law, no UAIZ Contract for property within the City's UAIZ shall be renewed or created after January 1, 2029. However, any UAIZ Contract entered into pursuant to this Chapter on or before January 1, 2029, to the extent allowed by law, shall be valid and enforceable for the duration of the UAIZ Contract.

19.100.150 Additional Requirements.

A property owner who enters into a UAIZ Contract and the property subject to a UAIZ Contract are subject to additional regulations as determined by the Chula Vista Municipal Code, by the County of San Diego, or by the State Legislature.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney